

**BOARD OF BAR EXAMINERS  
OF THE DELAWARE SUPREME COURT  
RULES**

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## **I. STRUCTURE AND SCOPE OF BOARD OF BAR EXAMINERS.**

### **RULE-1. DUTIES AND POWERS OF THE BOARD.**

The Board shall have the duties and powers set forth in Supreme Court Rule 51 and it shall also have the power to institute and defend actions in its name in any court of competent jurisdiction and to take such other and further action as the Board deems prudent and necessary to fulfill its duties and responsibilities.

### **RULE-2. OFFICERS AND MEMBERS.**

(a) **Chair and Members.** The Chair, Vice-Chair, Members of the Board, including, if applicable, the Secretary and Assistant Secretary, and Members-Elect shall be appointed by the Supreme Court in accordance with Supreme Court Rule 51.

(b) **Associate Members.** Associate members of the Board may be appointed by the Supreme Court to assist the Members in fulfilling their duties and responsibilities; provided, however, that Associate Members shall not have the power to vote on any determination or decision of the Board.

(c) **Compensation and Expenses.** Members, Members-Elect and Associate Members shall receive no compensation for their services but may be reimbursed for travel and other expenses incidental to the performance of their duties. The expenses of the Board shall be paid by the Court in accordance with policies adopted by the Board.

### **RULE-3. ABSTENTION OF BOARD MEMBERS.**

Members shall refrain from taking part in any meeting, hearing, or portion thereof in which a judge, similarly situated, would be required to abstain and shall only be considered “disqualified” for the purposes of that meeting, hearing or portion thereof.

### **RULE-4. MEETINGS AND QUORUM.**

(a) **Meetings.** A regular meeting of the Board shall be held at such time during the months of June or July of each year as the Board shall determine. At that meeting written applications for admission to the Bar shall be considered. A regular meeting of the Board shall also be held at such time prior to November 1 of each year as the Board shall determine for the consideration of the results of the examinations for admission to the Bar and the transaction of any business pending before the Board. Special meetings may be called at any time by the Chair or Vice-Chair or by any Member of the Board upon 2 days’ notice.

(b) **Quorum.** A majority of the total number of Members shall constitute a quorum for the transaction of business by the Board. A majority of the total votes cast at a meeting at which a quorum is present shall be the act of the Board.

(c) **Ad Hoc Members.** If, in any given meeting or hearing, the number of Board Members not disqualified is less than a quorum, the Supreme Court may appoint, for that meeting or hearing only, the number of *ad hoc* Members (which may include Associate Members) necessary to establish a quorum. Each *ad hoc* Member shall have the powers and fulfill the duties of a Member of the Board for the purposes of that meeting or hearing only.

**(d) Committees and Panels.** The Chair, Vice-Chair, or, if both are absent or disqualified, the Board may appoint committees or panels of the Board, which shall have such powers, general or specific, as the Chair, Vice-Chair or Board shall designate. Any committee or panel (except Hearing Panels under Rule 32) may consist of 1 or more members. Subject to the foregoing, whenever a committee or panel has been appointed to act for the Board on a particular matter, every reference in these Rules to the Board shall refer to such committee or panel.

**(e) Telephone Meetings.** Except with respect to hearings, the Board, and any of the Members thereof, may participate in any meeting of the Board, or a committee or panel thereof, by means of conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

## **II. APPLICATION PROCESS.**

### **RULE-5. FILING OF APPLICATION AND FEE.**

**(a) Time to File Application.** On or before the 15<sup>th</sup> day of April of the year in which an applicant desires to take the Bar Examination, the applicant shall file with the Board, on forms provided by the Board, a written application for admission to the Bar, along with any documents required by the application form. No applications shall be accepted after April 15; provided, however, that the Board may permit an untimely filing upon the submission of the applicant's affidavit setting forth good cause for the delay, but only if the delay will not prejudice the Board in completing its investigations or otherwise in processing the application in any respect and if the Board shall determine that, due to one or more unforeseeable circumstances falling outside of the applicant's control, it was not reasonably practicable for the applicant to file in a timely fashion. In no event, however, shall an extension of the initial application deadline be granted beyond June 1 of the year in which the applicant desires to take the Bar Examination. If the affidavit seeking an extension of the filing deadline is filed after April 15, it must be accompanied by a completed application and the filing fee, as addressed below.

**(b) Application Fee.** The application shall be accompanied by a nonrefundable application fee of \$500.00 if the application is filed on or before March 15 of the year the applicant wishes to take the exam, or \$600.00 if it is filed after March 15. All application fees shall be paid by certified check or other equivalent method of guaranteed payment; provided, however, the Chair or Vice-Chair may waive this requirement in appropriate cases.

**(c) Time to File Additional Materials.** On or before July 1, the applicant shall file with the Board the following:

- (1)** The applicant's Preceptor's Certificate as described in Rule 10(e);
- (2)** A transcript of the applicant's final law school grades; and

**(3)** Evidence that the applicant has been regularly graduated with a juris doctor degree from a law school which at the time of conferring such degree was listed on the American Bar Association list of approved law schools.

**(d) Deleted.**

**RULE-6. Deleted.**

**RULE-7. APPLICANT'S DUTY OF CANDOR.**

Consistent with the requirements of Rule 8.1 of the Delaware Lawyers' Rules of Professional Conduct, each applicant for admission to the Bar has a duty to be candid and to make full, careful and accurate responses and disclosures in all phases of the application and admission process. The Board requires that each applicant respond fully to its inquiries, and it relies on the applicant's responses and disclosures in making its assessment of the applicant's fitness for admission to the Bar. The Board's investigation of the applicant's fitness for admission to the Bar is a continuing one and, accordingly, until the applicant's admission to the Bar, the applicant must continue to provide any information or material not previously disclosed that relates to the Board's fitness investigation.

### **III. MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION.**

#### **RULE-8. MULTISTATE PROFESSIONAL RESPONSIBILITY EXAMINATION.**

An applicant must achieve a scaled score of not less than 85 on the Multistate Professional Responsibility Examination ("MPRE") taken between January 1 of the calendar year four(4) years preceding and December 31 of the calendar year following the year in which the applicant passes the Delaware Bar Examination. The MPRE is administered in all respects by the National Conference of Bar Examiners ("NCBE"). The MPRE shall be given on such dates, at such locations and under such conditions as the NCBE shall designate, and applications to take the MPRE and all matters relating thereto, including requests for special accommodations, shall be made directly to the NCBE and not to the Board. The applicant shall be responsible to assure that the results of the MPRE are transmitted to the Board.

### **IV. PRECEPTORS.**

#### **RULE-9. DUTY TO OBTAIN PRECEPTOR.**

Each applicant shall have the duty to obtain an attorney who is qualified and willing to serve as the applicant's preceptor in accordance with Supreme Court Rule 52 and these Rules. Applicants who have been unable to obtain a preceptor despite a reasonable and good faith effort may contact the Board.

#### **RULE-10. QUALIFICATIONS AND DUTIES OF A PRECEPTOR.**

**(a) Qualifications.** An attorney is qualified to act as a preceptor if the attorney has been admitted to the Bar of the Supreme Court of Delaware for at least 10 years prior to undertaking the duties of a preceptor, and if the attorney attends during the year in which the attorney serves as preceptor, or has attended within the previous 5 years, a meeting of the preceptors held in conjunction with the annual Bench and Bar Conference or at such other time or times as the Board may designate.

**(b) Duty to Investigate.** Unless the preceptor personally knows the applicant, a preceptor has a duty to conduct a reasonably comprehensive personal interview with the applicant before agreeing to act as a preceptor. A preceptor must also have sufficient personal knowledge of the applicant's background, or make a reasonable investigation into the applicant's background from independent sources other than the applicant or the applicant's family, in order that the preceptor may give the required certifications freely and without reservation. In making any such certifications, the preceptor must state the basis of the preceptor's knowledge.

**(c) Duty to Review.** A preceptor must personally review the application of the applicant filed pursuant to these Rules and discuss the application with the applicant sufficiently so as to allow the preceptor to reasonably conclude that the application is factually accurate and contains no omission of any fact required to be disclosed.

**(d) Duty to Confer and Monitor.** A preceptor shall confer on a frequent and regular basis with the applicant in order to review the applicant's clerkship and to advise the applicant of the expected conduct and obligations of a member of the Bar. A preceptor shall also have sufficient personal

knowledge, or determine after a reasonable investigation, that the applicant has satisfied all clerkship requirements of the Supreme Court and the Board.

**(e) Duty to Certify.** A preceptor shall have a duty to execute the following:

(1) A Preceptor's Certificate certifying to the Board that the preceptor knows the applicant; that the preceptor is satisfied, either from personal knowledge or after reasonable investigation into the applicant's background from independent sources other than the applicant or the applicant's family, that the applicant is a person of good moral character and reputation; that the applicant is fit for the practice of law; and that the applicant is qualified to take the Bar Examination and to be admitted to the Bar. The Preceptor's Certificate shall also include an acknowledgment that the preceptor understands that the Supreme Court and the Board rely on the Preceptor's Certificate and the Clerkship Certificate and that the preceptor may be held accountable to the Supreme Court for failure to perform adequately the duties and obligations of a preceptor; and

(2) A Clerkship Certificate certifying to the Board at the appropriate time that the applicant has completed the clerkship requirements as set forth in Supreme Court Rule 52(a)(8) and reviewed the Statement of Principles of Lawyer Conduct in Supreme Court Rule 71.

## **V. BAR EXAMINATION FORM AND PROCESS.**

### **RULE-11. TIME OF THE EXAMINATION.**

The Bar Examination shall be in writing and shall be given each year on such days as the Board shall designate.

### **RULE-12. MATTERS COVERED BY THE EXAMINATION.**

The Bar Examination shall consist of the Multistate Bar Examination ("MBE") and two Multistate Performance Tests ("MPT"), both prepared by the NCBE, and 8 essay questions on such of the following subjects as the Board shall determine:

Agency  
Constitutional Law  
Contracts  
Corporations  
Criminal Law (including the Delaware Criminal Code)  
Equity  
Evidence  
Partnerships  
Procedure in the Supreme Court of the State of Delaware, the Court of Chancery of the State of Delaware, the Superior Court of the State of Delaware (Civil and Criminal), the Family Court of the State of Delaware, the United States District Court for the District of Delaware and the original and appellate jurisdiction of the courts of Delaware  
Property  
Torts  
Trusts  
Uniform Commercial Code  
Wills

### **RULE-13. PASSING GRADE ON THE EXAMINATION.**

An applicant shall be deemed to have passed the Bar Examination if, in a single administration of that Examination, the applicant achieves a “total scale score” of 145.00 or higher. “Total scale scores” are computed as follows: (a) the raw scores on each of the eight essay questions are converted to a score distribution that has a mean of 50 and a standard deviation of 7, (b) the raw scores on each of the two MPT questions are converted to a score distribution that has a mean of 50 and a standard deviation of 14, (c) a given applicant’s “total converted score” is the sum of that applicant’s converted essay and converted MPT scores, (d) the distribution of the “total converted scores” is scaled to the MBE to yield a “total written scale score,” (e) the applicant’s “total written scale score” is combined with that applicant’s MBE scale score (with the written score weighted at 60% and the MBE score weighted at 40%) to produce a “total scale score.” The term “scaled to the MBE” as used herein means that the distribution of “total scale scores” is scaled to a distribution that has the same mean and standard deviation as the MBE scale scores in Delaware.

### **RULE-14. ANONYMOUS ADMINISTRATION AND GRADING.**

The Bar Examination shall be administered and graded on an anonymous basis. Each applicant will be assigned a number at random which will be used to identify the applicant’s answers to the Bar Examination. The information that connects the identity of the applicant with an examinee number shall be secured in a safe deposit box under the joint control of the Chair or Vice-Chair of the Board and an official of the Supreme Court to be designated by the Chief Justice. No other information showing such identification shall be retained by any person.

### **RULE-15. NON-DISCRIMINATORY ADMINISTRATION.**

**(a) Requests for Special Accommodations.** The Bar Examination shall be administered in a manner that does not discriminate against individuals with disabilities. An applicant who is otherwise eligible to take the Bar Examination may request reasonable special accommodations with respect to the manner in which the examination is administered, if, by virtue of a temporary or permanent disability, the applicant is unable to take the examination under normal testing conditions.

**(b) Form and Timing of Requests.** A request for special accommodations must be made by filing with the Board (i) an Application for Special Accommodations on a form that the Board will provide upon applicant’s written request; and (ii) a timely application to take the Bar Examination pursuant to Rule 5(a). No application for special accommodations will be accepted after April 15, except that the Board may accept such an application after April 15 if the applicant documents at the time of the submission of the application that the disability on which the request for special accommodations is based first manifested itself after April 15. If an applicant is permitted to file a Bar Examination application after April 15 pursuant to Rule 5(a), the applicant may file a request for special accommodations on the same date as the Bar Examination application regardless of when the disability manifested itself.

The Board may further require that an applicant seeking special accommodations provide additional information or documentation in support of the application. Such information or documentation may include, but is not limited to, information concerning special accommodations provided during the applicant’s legal education and certification from the schools where such special accommodations were provided. Where deemed necessary by the Board, the applicant also may be required to undergo a physical examination to be conducted by a medical expert chosen by the Board. The costs of any examination or testing required by the Board in connection with such a



petition shall be borne by the applicant. The Board may seek the assistance of a medical, psychological, or other authority of the Board's choosing in reviewing a request.

#### **RULE 16. POSTING OF RESULTS BY EXAMINEE NUMBER.**

When the Board has determined which applicants have passed or failed the Bar Examination, it will post the results achieved by the applicants, identified solely by examinee number, at such place or places as it shall determine.

#### **RULE 17. PUBLICATION OF RESULTS BY NAME.**

After the results have been posted by examinee number, the information connecting the identity of the applicant with an examinee number shall be obtained from the safe deposit box and the names of the successful applicants shall be made public. The information connecting the identity of the applicant with an examinee number shall not be provided to any member of the Board until the Board has posted the results in accordance with Rule 16.

#### **RULE 18. INDIVIDUAL NOTIFICATION OF RESULTS.**

After the results have been posted in accordance with Rule 16, the Secretary or Assistant Secretary shall notify all applicants in writing whether they passed or failed the Bar Examination and shall notify each failing applicant of the applicant's score on each of the essay questions, on each MPT and on the MBE. The Board shall authorize the NCBE to release MBE scores to all applicants in accordance with Board Rule 52(f).

#### **RULE-19. RECEIPT OF ANSWERS.**

Any applicant who failed to achieve a passing score on the Bar Examination may obtain, upon written request made within 14 days after the examination results are posted and accompanied by \$10.00 fee for each question requested, a copy of any or all of the applicant's answers to the essay examination and MPTs together with two representative answers to each such question.

**RULE-20. Deleted.**

**RULE-21. Deleted.**

**RULE-22. Deleted.**

### **VI. BAR REEXAMINATION.**

**RULE-23. Deleted.**

**RULE-24. Deleted.**

**RULE-25. Deleted.**

**RULE-26. Deleted.**

**RULE-27. Deleted.**

## **RULE-28. NO LIMITATION ON REAPPLICATION OPPORTUNITIES.**

There shall be no limitations on the number of times an applicant may apply to take the Bar Examination.

## **VII. HEARINGS AND APPEAL RIGHTS.**

### **A. HEARINGS.**

#### **RULE-29. PETITION FOR A HEARING.**

If an application has not been approved by the Board because there exist disputed issues of fact with regard to the subject matter of Supreme Court Rule 52(a)(1) or (4), Board of Bar Examiners Rule 7, Rule 15 or questions as to the applicant's character or fitness or events in connection with the administration of the Bar Examination, the applicant may petition the Board for a hearing; provided, however, that any decisions of the Board with respect to a specific grade or grades assigned to any individual applicant, once posted according to Rule 16, are final and not subject to review by the Board.

#### **RULE-30. TIME FOR FILING A PETITION FOR A HEARING.**

A petition under Rule 29 shall be filed with the Chair of the Board at the offices of the Board of Bar Examiners within 15 days after the date of the letter informing the applicant of the Board's decision with respect to the items set forth in Rule 29 not to approve the application.

#### **RULE-31. FORM AND CONTENT OF PETITION FOR A HEARING.**

A petition for a hearing shall consist of not more than 10 pages, shall be under oath and shall set forth with specificity the grounds upon which the applicant claims to be aggrieved and the remedy the applicant seeks. The petition shall be submitted on paper measuring 8-1/2 by 11 inches with double spacing of at least 1/4 inch between each line of text (measured from the bottom of the preceding line to the top of the highest letters in the next line). Side margins of petitions shall not be less than 1 inch. All typed matter must be of a size and type permitting not more than 11 characters or spaces per linear inch. Failure to comply with the requirements of this Rule may result in the denial of the petition.

#### **RULE-32. HEARING PANELS.**

Hearings may be conducted by a Panel of not fewer than 3 Members of the Board. The vote of the majority of the members of the Panel shall be the action of the Board.

#### **RULE-33. HEARING PRESENTER.**

Whenever the Board schedules a hearing, the Chairperson, or if the Chairperson is unavailable the Vice Chairperson, shall appoint the Office of Disciplinary Counsel, or an Associate Board member as the Board's Presenter. The Presenter shall not be a member of the Panel. It shall be the duty of the Presenter to insure that all pertinent evidence is placed in the record for the Panel's consideration.

#### **RULE-34. PREHEARING CONFERENCE.**

A Panel, in its discretion, may hold prehearing conferences by one or more of its members for the settlement or simplification of issues by consent, disposition of procedural requests or disputes, or regulation and expedition of the course of the hearing.

A Panel may, in its discretion, request submissions from the applicant and Presenter prior to the hearing, including a list of witnesses, copies of exhibits which either participant intends to submit at the hearing, and such other and further information or material as the Panel requests.

#### **RULE-35. NOTICE OF HEARING.**

Whenever the Board schedules a hearing, it shall give written notice to the applicant by certified mail, return receipt requested, at the mailing address supplied by the applicant on the application, at least 10 days in advance of the proposed hearing date, or such lesser period of time as is agreed upon by the Board and the applicant. A copy of the notice shall be sent to each Board member.

#### **RULE-36. CONTENTS OF NOTICE OF HEARING.**

The notice of the hearing shall:

- (a) Describe the subject matter of the hearing;
- (b) Give the date, time and place of the hearing;
- (c) Inform the applicant of the identity of the Presenter;
- (d) Give the date, time and place of a prehearing conference, if one will be conducted pursuant to Rule 34;
- (e) Inform the applicant of the applicant's right to present evidence, to have witnesses and other sources of evidence subpoenaed, to be represented by counsel and to appear personally; and
- (f) Inform the applicant that the Panel is obligated to reach its decision based on the evidence received and that the applicant has the burden of proof.

#### **RULE-37. CONDUCT OF HEARINGS.**

(a) **Subpoenas.** A hearing Panel is empowered to issue subpoenas as follows:

- (1) At the request of the Panel or Presenter, the Chair (or the Vice-Chair, in the Chair's absence), prior to any hearing or for the hearing, shall compel by subpoena the attendance of witnesses (including the applicant) and the production of such books, papers and documents before the Panel as are relevant to the issues that are the subject matter of the hearing.
- (2) At the written request of the applicant, the Chair (or the Vice-Chair, in the Chair's absence), prior to any hearing or for the hearing, shall compel by subpoena the attendance of such witnesses and the production of such books, papers and documents before the Panel as are relevant to the issues that are the subject matter of the hearing.

(3) Subpoenas issued during the course of a proceeding shall clearly indicate on their face that the subpoenas are issued in connection with a hearing under these Rules.

(4) Any challenge to the validity of a subpoena so issued shall be heard and determined by the chair of the Panel.

(5) The Supreme Court may, upon proper application, enforce the attendance and testimony of any witnesses and the production of any documents subpoenaed.

(b) **Oaths.** Any Panel member is empowered to administer oaths and affirmations to witnesses.

(c) **Evidence.** A Panel is not bound by the Rules of Evidence but may, in its discretion, exclude plainly irrelevant, immaterial or cumulative evidence.

(d) **Burden of Proof.** The burden of proof shall always be on the applicant.

#### **RULE-38. RECORD OF HEARINGS.**

The proceedings of all hearings shall be recorded in a manner which will allow a verbatim transcript to be prepared. The record of the hearing shall consist of the petition, if any, the notice of the hearing, testimony and stipulations, exhibits admitted into evidence, and the Panel's decisions.

#### **RULE-39. HEARING DECISIONS.**

A decision by a Panel which is adverse to the petitioner shall include:

- (a) Findings of fact based on the evidence;
- (b) Conclusions of law;
- (c) A concise statement of the Panel's determination or action; and
- (d) Dissenting views, if any, of any member of the Panel.

#### **RULE-40. HEARING COSTS.**

The costs of a hearing that is requested by an applicant, including the costs of investigation, service of process, witness fees, and a court reporter's services, may, at the discretion of the Board, be assessed against the applicant.

### **B. APPEAL RIGHTS.**

#### **RULE-41. APPEAL RIGHTS.**

An applicant who receives an adverse decision affecting the applicant's substantial rights may appeal that decision to the Supreme Court pursuant to Supreme Court Rule 52(e). As provided therein, however, decisions of the Board with respect to a specific grade or grades assigned to any individual applicant are final and shall not be subject to review by the Court.

### **VIII. SPECIAL ADMISSION UNDER SUPREME COURT RULE 55.**

#### **RULE-42. ATTORNEYS ADMITTED ELSEWHERE.**

An attorney who is of good character and reputation, who is admitted and licensed in the court of last resort of a state or territory of the United States or the District of Columbia, and who qualifies under Supreme Court Rule 55 may, in the discretion of the Board, be permitted to practice before the courts of this State and before any administrative tribunal in all causes in which the attorney is associated with or employed by the office of Community Legal Aid Society, Inc., the office of the Department of Justice of the State of Delaware, the office of the City Solicitor of the City of Wilmington, the office of the Public Defender of the State of Delaware, the New Castle County Office of Law or any legal assistance program approved or recognized by the Board, provided that said program ensures that attorneys practicing under this Rule shall do so under general supervision of a member in good standing of the Bar of the Delaware Supreme Court.

#### **RULE-43. REQUIRED APPLICATION FOR RULE 42 ADMISSION.**

An attorney who meets the requirements of Rule 42 shall be permitted to practice under Rule 42 only upon recommendation of the Board and the filing of the following documents with the Board:

- (a) An application including such information as shall be required on forms therefor supplied by the Board;
- (b) An application for admission to the Bar as provided by Rule 5, except in the case of an attorney who is associated with an approved legal assistance program and who seeks to practice under this Rule without compensation;
- (c) A certificate of the court wherein such attorney is admitted, certifying that the attorney is a member in good standing of the Bar of that court;
- (d) A certificate by a member of the Bar of the Delaware Supreme Court admitted to practice in the courts of this State for at least 10 years that the attorney is a person of good character and reputation, and competent legal ability; and
- (e) An affidavit of a representative of the office or program by which the attorney is employed or with which the attorney is associated attesting that the attorney is currently employed by or associated with such office or program.

#### **RULE-44. CONTINUING CERTIFICATION REQUIREMENT.**

An attorney admitted elsewhere who is permitted to practice under Rule 42 because of the attorney's association with an approved legal assistance program, as a condition to continued permission to practice, shall file with the Chair of the Board at the offices of the Board of Bar Examiners a certification, in a form prescribed by the Board, after November 1 and before November 30 of each year succeeding the year of the attorney's admission to limited practice. The certification shall state that the attorney is associated with a legal assistance program approved or recognized by the Board; that the attorney continues to be a member in good standing of the Bar of the State or territory of the United States or the District of Columbia to which the attorney has been admitted; and that the attorney is practicing without compensation. Failure to file such certification within the time provided shall result in the automatic suspension of permission to practice until further permission is applied for and granted by the Board.

#### **RULE-45. LAW SCHOOL GRADUATES.**

A person who has been regularly graduated from a law school qualified under Supreme Court Rule 52(a)(5) may, in the discretion of the Board, be permitted to engage in the activities permitted under this Rule if the person is associated with or employed by Community Legal Aid Society, Inc., the office of the Department of Justice of the State of Delaware, the office of the City Solicitor of the City of Wilmington, the office of the Public Defender of the State of Delaware, or any legal assistance program approved or recognized by the Board, provided that said program ensures that persons practicing under this Rule do so under the general supervision of a member in good standing of the Bar of the Delaware Supreme Court.

#### **RULE-46. REQUIRED APPLICATION FOR RULE 45 ADMISSION.**

An attorney who meets the requirements of Rule 45 shall be permitted to practice under Rule 45 only upon recommendation of the Board and the filing of the following documents with the Board:

- (a) An application including such information as shall be required on forms therefor supplied by the Board;
- (b) An application for admission to the Bar as provided by Rule 5;
- (c) Certificates from the person's preceptor and the dean of the person's law school that the person is of good character and reputation, competent legal ability and adequately trained to perform as a legal intern; and
- (d) An affidavit of a representative of the office by which the person is employed attesting that the person is currently employed by or associated with such office.

#### **RULE-47. REPRESENTATION WITH CLIENT'S CONSENT.**

A person who is permitted to practice under Rule 45 and who is employed by or associated with the office of Community Legal Aid Society, Inc. may appear in any administrative tribunal or in any court of this State except the Delaware Supreme Court, on behalf of any indigent person, if the client has consented in writing to that appearance. The required written consent shall be filed in the record of the case and shall be brought to the attention of the judge or administrative tribunal.

#### **RULE-48. APPROVAL OF SUPERVISING ATTORNEY.**

In addition to the consent of the client required by Rule 47, such persons shall also obtain the written approval for their appearance from the supervising lawyer and such supervision shall be handled in the following manner:

- (a) In any civil matter the supervising lawyer is not required personally to be present in court;
- (b) In any criminal matter in which the defendant does not have the right to the assignment of counsel under any constitutional provision, statute or rule of the court, the supervising lawyer is not required personally to be present in court; and
- (c) In any criminal matter in which the defendant has the right to the assignment of counsel under any constitutional provision, statute or rule of court, the supervising lawyer must personally be present in court. The written approval of the supervising attorney shall be filed

in the record of the case and shall be brought to the attention of the judge or the administrative tribunal.

**RULE-49. OTHER QUALIFIED ACTIVITIES.**

A person who is permitted to practice under Rule 45 and who is employed by or associated with the office of Community Legal Aid Society, Inc., an approved legal assistance organization, the office of the Department of Justice of the State of Delaware or the office of Public Defender of the State of Delaware, the New Castle County Office of Law may engage in activities other than those set forth in Rules 47 and 48 under the general supervision of the supervising lawyer, including preparation of pleadings and other documents to be filed in any matter in which the person is eligible to appear, but such pleadings or documents must be signed by the supervising lawyer.

## **RULE-50. QUALIFICATIONS AND DUTIES OF SUPERVISING LAWYER.**

The supervising lawyer referred to in these Rules shall:

- (a) Be a member in good standing of the Bar of the Delaware Supreme Court;
- (b) Assume personal and professional responsibility for guidance of the eligible person in any work undertaken and for supervising the quality of the eligible person's work; and
- (c) Assist the eligible person's preparation to the extent the supervising lawyer considers necessary.

## **RULE-51. GENERAL REQUIREMENTS APPLICABLE TO ALL PERSONS PRACTICING UNDER SUPREME COURT RULE 55.**

(a) No person admitted under Supreme Court Rule 55 shall accept or request any compensation or remuneration from any client.

(b) No person shall be permitted to practice under Supreme Court Rule 55 until the person has been introduced to the Supreme Court by a member of the Bar and has taken the oath or affirmation required by Supreme Court Rule 55(b).

(c) Permission to practice under Supreme Court Rule 55 shall cease whenever the person ceases to be employed by or associated with a qualified office or program. Notice of such cessation shall be filed by a representative of such office or program within 5 days with the Clerk of the Delaware Supreme Court and with the Board.

(d) No person shall be permitted to practice pursuant to Supreme Court Rule 55 unless a certificate stating that the person named therein has complied with the applicable provisions of those Rules shall have been filed with the Delaware Supreme Court by the Board. Certification of any person may be terminated by the Delaware Supreme Court at any time without notice or hearing and without any showing of cause.

(e) Persons permitted to practice under Supreme Court Rule 55 are not, and shall not represent themselves to be, members of the Bar of this State.

(f) Any person who is permitted to practice pursuant to Supreme Court Rule 55 shall be required to sit for the Bar Examination at the earliest opportunity following such person's authorization to practice under such Rule and shall continue to do so until such person has satisfied the requirements for admission and has been admitted to the Delaware Bar, or until such person has become disqualified to practice pursuant to Supreme Court Rule 55 by reason of the provisions of subparagraph (g) hereof.

(g) A person who has failed the Bar Examination twice may not be approved to practice and may not continue to practice under Supreme Court Rule 55.

(h) Persons employed by or associated with the office of the City Solicitor of the City of Wilmington may be permitted to practice under Supreme Court Rule 55 only in misdemeanor cases in the Court of Common Pleas or before a Justice of the Peace, and only under the general supervision of a supervising lawyer as defined in Rule 49.



(i) Persons employed by or associated with the office of the Department of Justice of the State of Delaware may be permitted to practice under this Rule in the Superior Court (except for trials in felony cases), in misdemeanor and civil proceedings before the Family Court, and in all proceedings before the Court of Common Pleas, a Justice of the Peace, and an administrative body of the State of Delaware, only under the general supervision of the supervising lawyer as defined in Rule 49.

(j) After November 1 and before November 30 of each year, Community Legal Aid Society, Inc., the Department of Justice of the State of Delaware, the City Solicitor of the City of Wilmington, the Public Defender of the State of Delaware, the New Castle County Office of Law and any legal assistance program approved or recognized by the Board shall each file a report with the Board which sets forth those persons who are then employed by or associated with such organization and are permitted to practice with such organization under these Rules. In the event an agency shall fail to file such a report or shall fail to file any other report which the Board may from time to time require, the limited permission to practice accorded under these Rules to persons practicing with that agency shall be automatically suspended.

## **IX. MISCELLANEOUS PROVISIONS.**

### **RULE-52. CONFIDENTIALITY.**

The Board shall keep confidential all information, documents and Board meetings or hearings concerning persons who apply for admission to the Bar, except:

(a) The Board may release statistical information and representative answers to essay and MPT questions not identified with any particular applicant, and it may release the names and addresses of applicants who have passed the Bar Examination or who have been admitted to the Bar;

(b) The Board may release to an applicant information and documents used by the Board in connection with any hearing of the Board concerning denial of the applicant's admission on the ground that the applicant fails to satisfy Supreme Court Rule 52(a)(1) or Board of Bar Examiners Rule 7;

(c) The Board may release to failing applicants their MBE scores and their scores and answers to their essay and MPT questions;

(d) The Board may release such confidential information concerning an applicant as the Board in its sole and exclusive discretion deems necessary to further its investigation of the applicant;

(e) The Board may release the names and addresses of applicants to the administrators of Bar Review courses recognized by the Board and it may release confidential information concerning an applicant to licensing, disciplinary or law enforcement agencies of any jurisdiction and to the NCBE;

(f) The Board shall release applicant names, examinee numbers and MBE scores to the NCBE after the exam results have been posted. The Board shall authorize the NCBE to release to a requesting applicant, under any terms and conditions set by the NCBE, that applicant's MBE score as to transfer that score to another jurisdiction; and

(g) The Board shall release confidential information as directed by Order of the Supreme Court.

**RULE-53. EXTENSIONS OF TIME.**

Any request to extend any deadline must be supported by the filing of a petition and supporting affidavit, under oath, setting forth the reasons for the delay. Except as otherwise specifically provided in these rules, the Board, in its discretion, may grant such petition only if the Board determines that good cause exists for the extension.

**RULE-54. CITATION.**

These Rules shall be referred to as the “Board of Bar Examiners Rules” and may be cited in short form as “BR”.

**Revised 1/1/08**